

BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF HAWAII

-----In the Matter of-----)  
PUBLIC UTILITIES COMMISSION )  
Instituting a Proceeding to )  
Investigate the Issues and )  
Requirements Raised by, and )  
Contained in, Hawaii's Public )  
Benefits Fund, Part VII of )  
Chapter 269, Hawaii Revised )  
Statutes )  
\_\_\_\_\_)

DOCKET NO. 2007-0323

ORDER NO. 23864

Filed Dec. 3, 2007  
At 1 o'clock P.M.

Karen Higashi  
Chief Clerk of the Commission

ATTEST: A True Copy  
KAREN HIGASHI  
Chief Clerk, Public Utilities  
Commission, State of Hawaii.

Karen Higashi

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DIV. OF CONSUMER ADVOCACY  
DEPT. OF COMMERCE AND  
CONSUMER AFFAIRS  
STATE OF HAWAII

BEFORE THE PUBLIC UTILITIES COMMISSION  
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\_\_\_\_\_)

Docket No. 2007-0323

Order No. 23864

ORDER

By this Order, the commission grants the following motions for intervention in this docket: (1) Motion to Intervene of Hawaii Renewable Energy Alliance ("HREA"), filed on October 5, 2007 ("HREA's Motion"); (2) Hawaii Solar Energy Association's ("HSEA") Motion to Intervene and Become a Party, filed on October 5, 2007 ("HSEA's Motion"); (3) Life of the Land's ("LOL") Motion to Intervene, filed on October 12, 2007 ("LOL's Motion"); (4) Honeywell International, Inc.'s ("Honeywell") Motion to Intervene and Become a Party, filed on October 15, 2007 ("Honeywell's Motion"); (5) Energy Industries, LLC's ("EI") Motion to Intervene, filed on October 15, 2007 ("EI's Motion"); and (6) Motion to Intervene of Haiku Design and Analysis ("HDA"), filed on October 16, 2007 ("HDA's Motion") (collectively, "Motions to Intervene").

I.

Background

By Order No. 23681, filed on September 26, 2007, in this docket ("Order No. 23681"), the commission initiated an investigation to examine the issues and requirements raised by and contained in, Part VII of Chapter 269, Hawaii Revised Statutes ("HRS") related to Hawaii's Public Benefits Fund ("PBF"). In particular, in this proceeding, the commission will select a Public Benefits Fund Administrator and implement a new market structure for Energy Efficiency Demand-Side Management ("DSM") programs pertaining to HAWAIIAN ELECTRIC COMPANY, INC. ("HECO"),<sup>1</sup> HAWAII ELECTRIC LIGHT COMPANY, INC. ("HELCO"),<sup>2</sup> and MAUI ELECTRIC COMPANY, LTD. ("MECO")<sup>3</sup> (collectively, the "HECO Companies") pursuant to HRS §§ 269-121, et seq., and Hawaii Administrative Rules ("HAR") § 6-61-71.

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<sup>1</sup>HECO is a Hawaii corporation and a public utility as defined by HRS § 269-1. HECO was initially organized under the laws of the Kingdom of Hawaii on or about October 13, 1891. HECO is engaged in the production, purchase, transmission, distribution, and sale of electricity on the island of Oahu in the State of Hawaii.

<sup>2</sup>HELCO is a Hawaii corporation and a public utility as defined by HRS § 269-1. HELCO was initially organized under the laws of the Republic of Hawaii on or about December 5, 1894. HELCO is engaged in the production, purchase, transmission, distribution, and sale of electricity on the island of Hawaii in the State of Hawaii.

<sup>3</sup>MECO is a Hawaii corporation and a public utility as defined by HRS § 269-1. MECO was initially organized under the laws of the Territory of Hawaii on or about April 28, 1921. MECO is engaged in the production, purchase, transmission, distribution, and sale of electricity on the island of Maui; the production, transmission, distribution, and sale of electricity on the island of Molokai, and the production, distribution, and sale of electricity on the island of Lanai in the State of Hawaii.

In Order No. 23681, the commission sua sponte named the HECO companies and the DIVISION OF CONSUMER ADVOCACY, DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS ("Consumer Advocate")<sup>4</sup> as parties to this proceeding. The commission notified the other parties and participants of Docket No. 05-0069, via Order No. 23681, that if they were interested in participating in this proceeding, they should file a motion to intervene or to participate without intervention within twenty (20) days of the Order.<sup>5</sup> The commission instructed that "an individual, entity, agency, or community or business organization that files a motion to intervene or participate without intervention is required to disclose whether it is a potential bidder to be the PBF Administrator."<sup>6</sup>

On October 5, 2007, HREA and HSEA timely filed their motions to intervene.<sup>7</sup> On October 10, 2007, HREA and HSEA submitted statements that they have no plans to bid for the PBF Administrator position.<sup>8</sup>

On October 12, 2007, LOL timely filed its motion to intervene. It did not state whether it intends to bid to become

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<sup>4</sup>The DIVISION OF CONSUMER ADVOCACY, DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS ("Consumer Advocate"), is an ex officio party to this docket, pursuant to HRS § 269-51 and HAR § 6-61-62.

<sup>5</sup>See Order No. 23681 at Section III.D.

<sup>6</sup>See Order No. 23681 at 13.

<sup>7</sup>See HREA's Motion, filed on October 5, 2007; HSEA's Motion, filed on October 5, 2007.

<sup>8</sup>See HREA's letter to the commission, filed on October 10, 2007; HSEA's letter to the commission, filed on October 10, 2007.

the PBF Administrator.<sup>9</sup> Its Certificate of Service indicates that it only served its motion on the commission, the Consumer Advocate, Thomas Williams, Esq., William Bonnett, Warren Lee, and Edward Reinhardt, of the HECO Companies.<sup>10</sup>

On October 15, 2007, the HECO Companies submitted a statement that they do not oppose HREA, HSEA, and LOL's Motions, "provided that the movants do not broaden the issues or delay the proceeding."<sup>11</sup>

On October 15, 2007, Honeywell and EI timely filed their motions to intervene. In its motion, Honeywell states that "[it] would like to reserve the right to bid as the PBF Administrator."<sup>12</sup> EI states in its motion that it "may consider becoming a respondent to the Request for Proposal for PBF Administrator that may result from this proceeding."<sup>13</sup>

On October 16, 2007, HDA timely filed its motion to intervene. In its motion, HDA states that it "is not a potential bidder to be the [PBF] Administrator, does not represent any potential bidder, and, as of this date, has not had any discussion with any potential bidder regarding any bid to be the Public Benefits Fund Administrator."<sup>14</sup>

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<sup>9</sup>See LOL's Motion, filed on October 12, 2007.

<sup>10</sup>See LOL's Motion, filed on October 12, 2007.

<sup>11</sup>See HECO's letter to the commission, filed on October 15, 2007.

<sup>12</sup>See Honeywell's Motion, filed on October 15, 2007, at 4.

<sup>13</sup>See EI's Motion at 4.

<sup>14</sup>See HDA's Motion, filed on October 16, 2007, at 5.

On October 19, 2007, the HECO Companies submitted a statement that they do not oppose Honeywell, EI, and HDA's Motions, "provided that the movants do not broaden the issues or delay the proceeding."<sup>15</sup>

## II.

### Discussion

HAR § 6-61-55 sets forth the requirements for intervention in commission proceedings. It states, in relevant part:

- (a) A person may make an application to intervene and become a party by filing a timely written motion in accordance with sections 6-61-15 to 6-61-24, section 6-61-41, and section 6-61-57, stating the facts and reasons for the proposed intervention and the position and interest of the applicant.
- (b) The motion shall make reference to:
  - (1) The nature of the applicant's statutory or other right to participate in the hearing;
  - (2) The nature and extent of the applicant's property, financial, and other interest in the pending matter;
  - (3) The effect of the pending order as to the applicant's interest;
  - (4) The other means available whereby the applicant's interest may be protected;

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<sup>15</sup>See HECO's letter to the commission, filed on October 19, 2007.

- (5) The extent to which the applicant's interest will not be represented by existing parties;
- (6) The extent to which the applicant's participation can assist in the development of a sound record;
- (7) The extent to which the applicant's participation will broaden the issues or delay the proceeding;
- (8) The extent to which the applicant's interest in the proceeding differs from that of the general public; and
- (9) Whether the applicant's position is in support of or in opposition to the relief sought.

HAR § 6-61-55(a) and (b). HAR § 6-61-55(d) further states that "[i]ntervention shall not be granted except on allegations which are reasonably pertinent to and do not unreasonably broaden the issues already presented."<sup>16</sup>

A.

HREA's Motion

In support of its Motion to Intervene, HREA states that it is a "Hawaii-based, private, non-profit corporation, exempt from federal income tax under Section 501(c)(6) of the Internal Revenue Code of 1986, composed of developers, manufacturers, distributors, scientists, engineers, and advocates in renewable energy."<sup>17</sup>

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<sup>16</sup>See In re Application of Hawaiian Elec. Co., Inc., 56 Haw. 260, 262, 535 P.2d 1102, 1104 (Haw. 1975) (intervention "is not a matter of right but a matter resting within the sound discretion of the commission").

<sup>17</sup>See HREA's Motion, filed on October 5, 2007, at 2.

HREA lists numerous commission dockets in which it has been allowed to intervene and states that:

Displacement renewables, especially solar water heating, solar air conditioning, and seawater air conditioning, either do or will play a key role in electric utility DSM and energy efficiency programs in Hawaii . . . . [T]he HREA has a substantial and continuing interest in the subjects of renewable energy and energy efficiency policy and implementation in the electric utility sector.<sup>18</sup>

HREA's member organizations and individuals are "companies, consultants or agents involved in and/or considering manufacturing, marketing, selling, installing and maintaining renewables in Hawaii. Accordingly, there are substantial financial and other interests implicated in this docket."<sup>19</sup>

In addition, HREA is committed to "provid[ing] the resources, including professional expertise and time, necessary for effective representation, and to assist in the development of a sound evidentiary record."<sup>20</sup>

Based upon the foregoing, the commission finds that HREA has a substantial interest that is reasonably pertinent to the matters of this docket, and that its participation in this proceeding may assist in the development of a sound record. Accordingly, the commission concludes that HREA's Motion should be granted.

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<sup>18</sup>See HREA's Motion, filed on October 5, 2007, at 3.

<sup>19</sup>See HREA's Motion, filed on October 5, 2007, at 3.

<sup>20</sup>See HREA's Motion, filed on October 5, 2007, at 4.



B.

HSEA's Motion

In support of its Motion to Intervene, HSEA states:

HSEA is a non-profit professional trade association (an organization) incorporated in the State of Hawaii in 1977 and is granted exemption from federal income tax under Section 501(c)(6) of the Internal Revenue Code of 1986. HSEA's organizational purposes are to promote the utilization and commercialization of solar energy resources, including solar water heating and solar electricity [photovoltaics] in the State of Hawaii, to advance consumer education and understanding of solar energy technologies, and to develop sound trade and technical practices among its member companies.<sup>21</sup>

HSEA has been granted intervenor status by the commission in several prior dockets pertaining to DSM programs, energy efficiency, and integrated resource planning.<sup>22</sup>

HSEA asserts that its members "have a substantial financial interest and investment in the success, improvement and continuation of the residential [Residential Efficient Water Heater] and [Residential New Construction] energy efficiency programs under the new third-party administrative entity. . . . Residential and commercial [solar water heating] technology remains a major component of the HECO [Companies'] DSM programs. . . . The number of [solar water heating] system installations in the State of Hawaii is now estimated to be approximately 90,000."<sup>23</sup>

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<sup>21</sup>See HSEA's Motion, filed on October 5, 2007, at 2-3.

<sup>22</sup>See HSEA's Motion, filed on October 5, 2007, at 3.

<sup>23</sup>See HSEA's Motion, filed on October 5, 2007, at 4.

HSEA claims that its member companies "contribute an estimated ninety percent of the sales and installations of [solar water heating] systems statewide."<sup>24</sup>

Based on the foregoing, the commission finds that HSEA has a substantial interest that is reasonably pertinent to the matters of this docket, and that its participation in this proceeding may assist in the development of a sound record. Accordingly, the commission concludes that HSEA's Motion should be granted.

C.

LOL's Motion

In support of its Motion to Intervene, LOL states that it is "a non-profit Hawaii-based organization. Our members live, work and recreate in Hawaii. We believe that everything is part of the environment. . . . We are a utility watch-dog group and are involved with monitoring and intervening on all aspects of Hawai[i's] energy policy."<sup>25</sup> LOL's members "support the rapid expansion of conservation, efficiency, and real renewable energy."<sup>26</sup>

LOL has been granted intervenor status by the commission in several prior dockets pertaining to DSM programs, energy efficiency, and integrated resource planning.<sup>27</sup>

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<sup>24</sup>See HSEA's Motion, filed on October 5, 2007, at 4.

<sup>25</sup>See LOL's Motion, filed on October 12, 2007, at 4.

<sup>26</sup>See LOL's Motion, filed on October 12, 2007, at 4.

<sup>27</sup>See LOL's Motion, filed on October 12, 2007, at 4.

LOL asserts that no other parties represent its members' interests since "[c]onsumer and environmental issues are distinct, although they overlap"<sup>28</sup>; and that its presence in the docket "will enable the [commission] to get a more complete picture of the environmental, social and economic costs/benefits associated with different future alternatives."<sup>29</sup>

Based on the foregoing, the commission finds that LOL has a substantial interest that is reasonably pertinent to the matters of this docket, and that its participation in this proceeding may assist in the development of a sound record. Accordingly, the commission concludes that LOL's Motion should be granted.

D.

Honeywell's Motion

In support of its Motion to Intervene, Honeywell states that it is a "corporation registered to do business in the State of Hawaii . . . bringing turnkey energy and water efficiency program management to utility companies nationwide."<sup>30</sup> It has been in Hawaii since 1996, administering energy efficiency programs for the HECO Companies and the City and County's Board of Water Supply.<sup>31</sup>

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<sup>28</sup>See LOL's Motion, filed on October 12, 2007, at 5.

<sup>29</sup>See LOL's Motion, filed on October 12, 2007, at 5.

<sup>30</sup>See Honeywell's Motion, filed on October 15, 2007, at 1.

<sup>31</sup>See Honeywell's Motion, filed on October 15, 2007, at 1.

Honeywell has experience "identifying, developing, administering, and implementing [DSM] and energy-efficiency programs"<sup>32</sup> for over thirty years and has acted as the third party administrator for the New Jersey Board of Public Utilities. It states that it is "the only company operating large scale energy efficiency programs in the State of Hawaii for the past 11 years."<sup>33</sup> It currently administers energy efficiency programs on behalf of the HECO Companies and has a financial business stake in the outcome of this docket, and "[a]ccordingly, the employee workforce represented and business considerations administering energy efficiency programs in Hawaii are substantial to Honeywell."<sup>34</sup>

Based upon the foregoing, the commission finds that Honeywell has a substantial interest that is reasonably pertinent to the matters of this docket, and that its participation in this proceeding may assist in the development of a sound record. Accordingly, the commission concludes that Honeywell's Motion should be granted.

E.

EI's Motion

In support of its Motion to Intervene, EI states that it is a "Hawaii Limited Liability Company, founded in 1994, that has been actively engaged in energy-conservation, energy

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<sup>32</sup>See Honeywell's Motion, filed on October 15, 2007, at 2.

<sup>33</sup>See Honeywell's Motion, filed on October 15, 2007, at 3.

<sup>34</sup>See Honeywell's Motion, filed on October 15, 2007, at 2.

efficiency, and renewable energy programs on all primary islands in the State of Hawaii, as well as programs in the West Coast, Pacific Northwest, and Pacific Territories of the United States."<sup>35</sup>

According to EI, it has been a catalyst, implementer, and produced energy conservation projects throughout Hawaii and elsewhere; as well as provided assistance to others to obtain financial incentives.<sup>36</sup> EI states that it has:

Extensive experience in (a) identifying and evaluating a broad range of energy conservation opportunities in building systems, (b) implementing appropriate retrofit measures, (c) managing the "monitoring and verification" requirements for utility incentives, and (d) processing incentive applications through the DSM programs.<sup>37</sup>

Based on its experience, EI believes that it "will be able to provide relevant input to the [commission] about existing energy efficiency DSM programs"<sup>38</sup> and assist the commission in the development of a sound record.<sup>39</sup>

Based upon the foregoing, the commission finds that EI has a substantial interest that is reasonably pertinent to the matters of this docket, and that its participation in this proceeding may assist in the development of a sound record.

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<sup>35</sup>See EI's Motion, filed on October 15, 2007, at 3.

<sup>36</sup>See EI's Motion, filed on October 15, 2007, at 3-4.

<sup>37</sup>See EI's Motion, filed on October 15, 2007, at 5.

<sup>38</sup>See EI's Motion, filed on October 15, 2007, at 2.

<sup>39</sup>See EI's Motion, filed on October 15, 2007, at 5.

Accordingly, the commission concludes that EI's Motion should be granted.

F.

HDA's Motion

HDA is a consulting firm registered as a business in the State of Hawaii as a sole proprietorship.<sup>40</sup> It provides public utility and regulatory affairs planning.<sup>41</sup>

In support of its Motion to Intervene, HDA states:

Most recently, HDA was a consultant for Rocky Mountain Institute in Docket No. 05-0069 (the "Energy Efficiency Docket") with services and substantial participation in the docket performed by HDA's principal, Carl Freedman, as an expert witness. The Energy Efficiency Docket generally, and testimony and pleadings prepared by Carl Freedman on behalf of RMI specifically, addressed the general issues, related issues and some specific issues that are the subject matter of Docket No. 2007-0323.<sup>42</sup>

Although HDA states that it is not a potential bidder to be the PBF Administrator, it "may conceivably ultimately provide services to the [c]ommission, utilities or other Hawaii energy sector stakeholders . . . ."<sup>43</sup>

Based on the foregoing, the commission finds that HDA has a substantial interest that is reasonably pertinent to the matters of this docket, and that its participation in this

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<sup>40</sup>See HDA's Motion, filed on October 16, 2007, at 2.

<sup>41</sup>See HDA's Motion, filed on October 16, 2007, at 2.

<sup>42</sup>See HDA's Motion, filed on October 16, 2007, at 4.

<sup>43</sup>See HDA's Motion, filed on October 16, 2007, at 5.

proceeding may assist in the development of a sound record. Accordingly, the commission concludes that HDA's Motion should be granted.

The commission, however, cautions HREA, HSEA, LOL, Honeywell, EI and HDA that their participation as intervenors in this docket will be limited to the issues raised in this docket. The commission will preclude any effort by them to unreasonably broaden the issues, or unduly delay the proceeding, and will reconsider their participation in this docket if, at any time, during the course of this proceeding, the commission determines that they are unreasonably broadening the pertinent issues raised in this docket or are unduly delaying the proceeding. In addition, the commission will require HREA, HSEA, LOL, Honeywell, EI and HDA to meaningfully participate in the docket, and will reconsider allowing them to intervene if they fail to follow commission rules, contribute to the development of a sound record, or otherwise meaningfully participate in this proceeding.

### III.


#### Orders

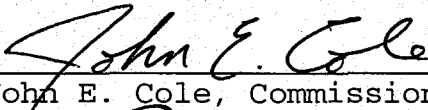
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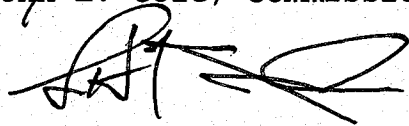
1. HREA's Motion to Intervene is granted.
2. HSEA's Motion to Intervene is granted.
3. LOL's Motion to Intervene is granted.
4. Honeywell's Motion to Intervene is granted.
5. EI's Motion to Intervene is granted.
6. HDA's Motion to Intervene is granted.

DONE at Honolulu, Hawaii DEC - 3 2007.

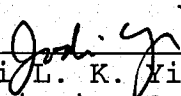
PUBLIC UTILITIES COMMISSION  
OF THE STATE OF HAWAII

By   
Carlito P. Caliboso, Chairman

By   
John E. Cole, Commissioner

By   
Leslie H. Kondo, Commissioner

APPROVED AS TO FORM:

  
Jodi L. K. Yi  
Commission Counsel

2007-0323.cp



CERTIFICATE OF SERVICE

I hereby certify that I have this date served a copy of the foregoing Order No. 23864 upon the following parties, by causing a copy hereof to be mailed, postage prepaid, and properly addressed to each such party.

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Certificate of Service

Page 2

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\_\_\_\_\_  
Karen Higashi

DATED: DEC - 3 2007